IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 93 OF 2006

1. Forum Against Commercialisation of Education & 15 ors.] .. Petitioners

Versus

1. State of Maharashtra & 2 ors.] .. Respondents

Mr. Madhav J. Jamdar for petitioners.

Mr. A.A. Kumbhakoni, Associate Advocate General with Mr. V.P. Malwankar, AGP, for respondents No.1 to 3.

CORAM: R.M. LODHA &
NARESH H. PATIL, JJ.

DATED: 27TH JULY, 2006

ORAL ORDER : [Per R.M. Lodha, J.]

. By means of this Writ Petition in the nature of Public Interest Litigation, the petitioners have raised the issue of admission to the Post Graduate Degree Course in Pharmacy (M. Pharm.) in the private colleges. According to the petitioners, the private colleges admit the students to M. Pharm. courses, not on the basis of merit, but on the basis of the amount which an individual student is ready to pay to the Management by way of donation/exorbitant fee. The petitioners have prayed that admission to M.Pharm. in the private colleges be ordered to be given as per the

Rules framed by the Government of Maharashtra for Government colleges.

2. In response to the Writ Petition, Director of Technical Education, Maharashtra State has filed the reply Affidavit. He has stated that there are thirty-two colleges in the State of Maharashtra conducting M. Pharm. course. These colleges can be divided into four categories viz. 1) Government colleges; 2) Government aided colleges; 3) University departments and 4) Private un-aided colleges. Out of these thirty-two colleges, three are Government colleges, three are Government aided colleges, two are University departments and remaining twenty-four are private unaided colleges. The affidavit refers to the decisions of the Supreme Court in the case of **T.M.A. Pai Foundation Vs. State of Karnataka (2002) 8 S.C.C., 481; Islamic Academy of Education Vs. State of Karnataka, AIR 2003, S.C., 3724** and **P.A. Inamdar Vs. State of Maharashtra, (2005) 6, S.C.C., 537** and the legal position culled out from the aforesaid three decisions is that the un-aided private education have a right to establish and administer educational institution of their choice and that right includes right to grant admission. It is stated that insofar as admissions in the private institutions are concerned, as

per the decision of the Supreme Court in **Islamic Academy of Education** and **P.A. Inamdar**, a committee has been constituted for monitoring admission procedure and that the grievance raised by the petitioners has to be considered by the said committee. In respect of eight colleges comprising of Government colleges, Government aided institutes and the University departments, Mr. A.A. Kumbhakoni, the Associate Advocate General informed us that the respondents are ready and willing to provide for single window system i.e. centralised admission process.

3. In the light of the decisions of the Supreme Court in the case of **Islamic Academy of Education** and **P.A. Inamdar**, Mr. Madhav Jamdar, the counsel for the petitioners submitted that petitioners shall make representation to the Admission Monitoring Committee and that necessary directions be issued to the said committee for expeditious disposal of the petitioners' representation.

4. The legal position concerning admission in private unaided institutions is crystallized by the three decisions of the Supreme Court in **T.M.A. Pai Foundation, Islamic Academy of Education** and **P.A. Inamdar**. As per the said legal position, the grievance

concerning admission in M. Pharm. courses in private unaided institutes has to be made to the Admission Monitoring Committee constituted as per the aforesaid decisions of the Supreme Court. With regard to the admission in the Government colleges, Government aided colleges and the University departments, the State Government has already decided to have single window system.

5. Hence the order:

(i) We record and accept the statement made on behalf of the State Government that the admission to M. Pharm. course in Government College of Pharmacy, Karad, Government College of Engineering, Aurangabad, Government College of Engineering, Amravati, K.M. Kundnani College of Pharmacy, Mumbai, C.U. Shah College of Pharmacy and Nashik District Maratha Vidya Prasarak Samaj, Nashik, Department of Pharmacy, Nagpur and Bombay College of Pharmacy, Bombay shall have single window system i.e. centralised admission process for the academic year 2006-2007.

(ii) With regard to admission to M. Pharm. in twenty-four private colleges, liberty is granted to the petitioners to make representation to the Admission Monitoring Committee constituted for the purpose. We hope that the Admission Monitoring Committee shall hear and decide such representation as expeditiously as possible and preferably within fifteen days of receipt of such representation.

. Writ Petition is disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[NARESH H. PATIL, J.]